IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
IN THE COLUMBIA DIVISION

CHERYL MONNELL,

Plaintiff,

v.

WELLCARE OF SOUTH CAROLINA, INC., ROBERT LONDON AND BARBARA CRIMM, IN THEIR INDIVIDUAL CAPACITIES,

Defendants.

C.A. NO.: 3:17-cv-00385-CMC

DEFENDANT COMPREHENSIVE HEALTH MANAGEMENT INC.'S ANSWER TO PLAINTIFF'S COMPLAINT

COMES NOW Defendant Comprehensive Health Management Inc. ("CHMI") (improperly named in the Complaint as Wellcare of South Carolina, Inc.),[1] by and through its undersigned counsel, and hereby responds to the allegations in Plaintiff's Complaint, Paragraph by Paragraph, as follows:

1. In response to the allegations in Paragraph 1 of Plaintiff's Complaint, on information and belief, Plaintiff is now a citizen and resident of Virginia. Therefore, the allegations in Paragraph 1 are denied.

2. Defendant CHMI admits that it is a corporation organized and existing under the laws of the State of Florida and that it conducts business at 200 Center Point Circle, Columbia, South Carolina 29210, where Plaintiff was employed. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 2 of the Complaint.

[1] Plaintiff has improperly identified WellCare of South Carolina, Inc. as her prior employer and the corporate defendant in this lawsuit. Plaintiff was employed by CHMI, which also employs the Defendants London and Crimm. WellCare of South Carolina, Inc. has no employees and is not a proper party to this action.

3. Defendant CHMI admits that Dr. Robert London (hereinafter "Dr. London") is employed by CHMI as Senior Medical Director for CHMI's South Carolina office and that Dr. London resides in Richland County, South Carolina. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 3 of the Complaint.

4. Defendant CHMI admits that Barbara Crimm (hereinafter "Ms. Crimm") is employed by CHMI as Senior Director of Quality for CHMI's South Carolina office. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 4 of the Complaint.

5. Defendant CHMI admits that Plaintiff has attempted to allege claims under the South Carolina Payment of Wages Act and the common law of South Carolina, the mere recitation of which is insufficient to create any liability or entitle Plaintiff to any relief. Defendant CHMI denies that it violated any law and denies that Plaintiff is entitled to any relief whatsoever.

6. Defendant CHMI admits that Plaintiff was employed by CHMI in Richland County, South Carolina. Defendant CHMI, however, denies that it engaged in any unlawful action with regard to Plaintiff in Richland County or otherwise. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 6 of the Complaint.

ALLEGATIONS

7. Defendant CHMI admits that Plaintiff began her employment with CHMI on or about September 9, 2013, when she was hired as Director of Quality for CHMI's South Carolina office. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 7 of the Complaint.

8. Defendant CHMI denies the allegations in Paragraph 8 of the Complaint.

9. Defendant CHMI admits that CHMI hired Dr. London as Medical Director for CHMI's South Carolina office in January 2014 and that Plaintiff was one of several CHMI employees who interviewed Dr. London. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 9 of the Complaint.

10. Defendant CHMI admits that Plaintiff reported to Dr. London for a period of time after Dr. London was hired. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 10 of the Complaint.

11. Defendant CHMI admits that Ms. Crimm was hired by CHMI several months prior to Plaintiff being hired and that Ms. Crimm and Plaintiff knew each other from having worked together at a prior employer.

12. Defendant CHMI admits that Ms. Crimm was hired by CHMI as Regional Director of Quality. Defendant CHMI admits further that Ms. Crimm's duties and responsibilities changed as part of a corporate reorganization, but Ms. Crimm was not laid off. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 12 of the Complaint.

13. Defendant CHMI denies the allegations in Paragraph 13 of the Complaint.

14. Defendant CHMI denies the allegations in Paragraph 14 of the Complaint.

15. Defendant CHMI admits that Plaintiff reported to Ms. Crimm for a period of time. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 15 of the Complaint.

16. Defendant CHMI admits that Ms. Crimm completed a 2015 mid-year assessment on Plaintiff. The content of the 2015 mid-year assessment speaks for itself. Except

as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 16 of the Complaint.

17. Defendant CHMI admits that Ms. Crimm completed a 2015 annual performance review on Plaintiff. The content of the 2015 annual performance review speaks for itself. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 17 of the Complaint.

18. Defendant CHMI admits that Ms. Crimm provided comments in Plaintiff's 2015 annual performance review. The content of the 2015 annual performance review speaks for itself. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 18 of the Complaint.

19. Defendant CHMI admits that Ms. Crimm coached Plaintiff to help her try and work up to a Senior Director position. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 19 of the Complaint.

20. Defendant CHMI admits that Ms. Crimm coached Plaintiff on improving her performance before and after March 2016. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 20 of the Complaint.

21. Defendant CHMI admits that Plaintiff continued working as Director of Quality for CHMI's South Carolina office after March 2016. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 21 of the Complaint.

22. Defendant CHMI admits that Ms. Crimm issued Plaintiff a verbal warning regarding her performance and leadership issues in or around June 2016 and that Plaintiff provided a written response. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 22 of the Complaint.

23. Defendant CHMI admits that after Plaintiff received the verbal warning and her performance did not improve, Ms. Crimm encouraged Plaintiff to apply for other jobs within CHMI. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 23 of the Complaint.

24. Defendant CHMI admits that Plaintiff worked with Christie Waller, a recruiter for CHMI, to find another position with CHMI. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 24 of the Complaint.

25. Defendant CHMI admits that Plaintiff expressed concerns to Ms. Waller regarding Plaintiff's job security and in response Ms. Waller asked Plaintiff if she was worried. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 25 of the Complaint.

26. Defendant CHMI admits that Plaintiff was provided a corrective action form dated September 9, 2016 and signed by Plaintiff on October 12, 2016. The content of the corrective action form speaks for itself. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 26 of the Complaint.

27. Defendant CHMI is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27 of the Complaint.

28. Defendant CHMI admits that on or about October 12, 2016, Plaintiff gave Ms. Crimm a six-page document in response to Plaintiff's corrective action form. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 28 of the Complaint.

29. Defendant CHMI admits that Ms. Crimm asked Plaintiff if someone assisted her in drafting the six-page document Plaintiff submitted in response to her corrective

action form. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 29 of the Complaint.

30. Defendant CHMI admits that Plaintiff's employment was terminated on October 14, 2016. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 30 of the Complaint.

31. Defendant CHMI admits that Katelyn Satterthwaite, executive assistant to Dr. London, walked with Plaintiff out of the building after Plaintiff was terminated. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 31 of the Complaint.

32. Defendant CHMI denies the allegations in Paragraph 32 of the Complaint.

FIRST CAUSE OF ACTION AGAINST DEFENDANT WELLCARE
(VIOLATION OF S.C. PAYMENT OF WAGES ACT)

33. Defendant CHMI incorporates and reasserts its responses to Paragraphs 1 through 32 of Plaintiff's Complaint as if fully restated herein.

34. Defendant CHMI admits that following Plaintiff's termination she was paid all wages due and that Plaintiff was not paid unused PTO in accordance with CHMI's written policy.

35. Defendant CHMI denies the allegations in Paragraph 35 of the Complaint.

36. The allegations in Paragraph 36 set forth a legal conclusion to which no response is required. To the extent a response is required, Defendant CHMI denies the allegations in Paragraph 36 of the Complaint.

37. Defendant CHMI admits that Jessica Lincoln, an HR employee for CHMI, sent an e-mail to Plaintiff on October 21, 2016 and the content of the e-mail speaks for itself. Except as expressly admitted herein, Defendant CHMI denies the allegations in Paragraph 37 of

the Complaint.

38. Defendant CHMI denies the allegations in Paragraph 38 of the Complaint.

39. The allegations in Paragraph 39 set forth a legal conclusion to which no response is required. To the extent a response is required, Defendant CHMI denies the allegations in Paragraph 39 of the Complaint.

40. Defendant CHMI denies the allegations in Paragraph 40 of the Complaint.

41. Defendant CHMI denies the allegations in Paragraph 41 of the Complaint.

SECOND CAUSE OF ACTION AGAINST DEFENDANT WELLCARE (DEFAMATION)

42. Defendant CHMI incorporates and reasserts its responses to Paragraphs 1 through 41 of Plaintiff's Complaint as if fully restated herein.

43. Defendant CHMI denies the allegations in Paragraph 43 of the Complaint.

44. Defendant CHMI denies the allegations in Paragraph 44 of the Complaint.

45. Defendant CHMI denies the allegations in Paragraph 45 of the Complaint.

46. Defendant CHMI denies the allegations in Paragraph 46 of the Complaint.

47. Defendant CHMI denies the allegations in Paragraph 47 of the Complaint.

48. Defendant CHMI denies the allegations in Paragraph 48 of the Complaint.

49. The allegations in Paragraphs 49 through 57 are directed solely at Defendants Dr. London and Ms. Crimm, and they have filed a motion to dismiss Plaintiff's civil conspiracy cause of action. Accordingly, no response to the allegations in these paragraphs is required by Defendant CHMI. To the extent a response may be deemed to be required, Defendant CHMI denies the allegations in Paragraphs 49 through 57 of the Complaint.

50. Defendant CHMI denies that Plaintiff is entitled to the relief requested in the "WHEREFORE" section of Plaintiff's Complaint or to any other relief.

51. To the extent not specifically admitted, Defendant CHMI denies each and every allegation contained in Plaintiff's Complaint.

FOR A FIRST DEFENSE

Plaintiff's Complaint should be dismissed, in whole or in part, for failure to state a cause of action upon which relief can be granted.

FOR A SECOND DEFENSE

Defendant CHMI has not engaged in any act constituting willful misconduct, demonstrating wantonness, oppression, want of care, or any other conduct of any type whatsoever which could support an award of punitive damages under applicable law.

FOR A THIRD DEFENSE

Some or all of the relief sought by Plaintiff is barred by the doctrines of unclean hands, laches, and/or estoppel.

FOR A FOURTH DEFENSE

At all times during her employment with CHMI, Plaintiff was an at-will employee.

FOR A FIFTH DEFENSE

Any award of damages should be barred or limited to the extent that the relief demanded by Plaintiff is improper, inappropriate, exceeds the scope of permissible damages and remedies, and/or otherwise is not available under the laws upon which her claims rest. Alternatively, in the event that Plaintiff is granted relief, such relief should be limited by the applicable provisions of any state law upon which Plaintiff's claims rest.

FOR A SIXTH DEFENSE

Plaintiff is not entitled to an award of punitive damages against Defendant CHMI to the extent that such an award is barred by the Constitution of the United States and the Constitution of the State of South Carolina. Defendant CHMI further alleges that any award of punitive damages would violate the prohibition against excessive fines found in the Eighth Amendment of the Constitution of the United States as applied to the state by way of the Due Process Clause of the Fourteenth Amendment of the Constitution of the United States. Further, any award of punitive damages would violate the guaranty of due process found in the Fourteenth Amendment to the Constitution of the United States because of the lack of objective guidelines on which a jury might base its award and, further, that such guidelines to the extent that they exist are arbitrary and void for vagueness.

FOR A SEVENTH DEFENSE

Defendant CHMI paid Plaintiff all wages due in accordance with the South Carolina Payment of Wages Act.

FOR AN EIGHTH DEFENSE

Any amounts withheld from Plaintiff were withheld pursuant to policy and in good faith within the meaning of the South Carolina Payment of Wages Act.

FOR A NINTH DEFENSE

Plaintiff is not entitled to treble wages (or any other amount), costs, and attorney's fees under the South Carolina Payment of Wages Act, § 41-10-80, because Defendant CHMI at all times acted in good faith. Any withholding of Plaintiff's wages was due to a bona fide, good-faith dispute over Plaintiff's entitlement to those wages.

FOR A TENTH DEFENSE

Plaintiff's Complaint is barred, in whole or in part, by the doctrine of payment, as Plaintiff has been properly compensated.

FOR AN ELEVENTH DEFENSE

Plaintiff fails to allege loss of wages as defined by the South Carolina Payment of Wages Act.

FOR A TWELFTH DEFENSE

Defendant CHMI alleges that the actions and/or statements allegedly published by Defendant CHMI did not have a defamatory meaning, and therefore the claim for defamation should be dismissed.

FOR A THIRTEENTH DEFENSE

Defendant CHMI alleges that the statements allegedly published by Defendant CHMI were truthful in all respects and that such truth acts as an absolute defense to Plaintiff's cause of action.

FOR A FOURTEENTH DEFENSE

Assuming any allegedly defamatory or slanderous statements were made, which Defendant CHMI expressly denies, Plaintiff's claims are barred because the statements were protected by a qualified, conditional, and/or absolute privilege.

FOR A FIFTEENTH DEFENSE

Assuming any allegedly defamatory or slanderous statements were made, which Defendant CHMI expressly denies, those remarks were not published by Defendant CHMI.

FOR A SIXTEENTH DEFENSE

Defendant CHMI alleges that the actions and/or statements allegedly published by

Defendant CHMI were not made with actual or implied malice, and therefore the claim for defamation should be dismissed.

Defendant CHMI reserves the right to amend its Answer or add further defenses that may become known after filing of this pleading.

WHEREFORE, Defendant CHMI requests that judgment be entered in its favor, that Plaintiff's Complaint be dismissed with prejudice, and that the Court enter an Order granting to Defendant CHMI its attorneys' fees, costs, and expenses, as well as other relief deemed just and equitable under the circumstances, incurred in defending this action.

Respectfully submitted this the 15th day of February, 2017.

Respectfully submitted,

s/ *Jonathan A. Roth*

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